

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

IP CO., LLC,

*Plaintiff,*

v.

CELLNET TECHNOLOGY, INC.,

*Defendant.*

Civil Action No. 1:05-CV-2658-CC

Judge Clarence Cooper

**DEFENDANT CELLNET TECHNOLOGY, INC.’S MOTION  
TO DISMISS COUNT II OF PLAINTIFF IP CO., LLC’S COMPLAINT**

Pursuant to Rule 41(b) of the Federal Rules of Civil Procedure, Cellnet Technology, Inc. (“Cellnet”) hereby moves for an order of dismissal with prejudice of Count II of the Complaint filed by IP Co., LLC (“IPCO”) on October 14, 2005. Cellnet relies primarily on the fact that IPCO has failed to prosecute the infringement claim relating to U.S. Patent No. 6,044,062.

Cellnet respectfully requests that the court dismiss with prejudice Count II of IPCO’s Complaint because IPCO has shown a pattern of willful inaction and disregard for both the Patent Local Rules of this Court and the Federal Rules of Civil Procedure. In addition, IPCO’s continued willful inaction regarding the voluntary dismissal of Count II of its Complaint has resulted in significant

prejudice to Cellnet as a result of the costly and time-consuming nature of patent litigation.

This motion is based on the accompanying memorandum in support of the motion, submitted herewith, and the exhibits thereto.

Dated: April 13, 2006

FISH & RICHARDSON P.C.

By: /s/ Christopher O. Green

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